

REMARKS

Reconsideration and allowance of the claims are requested in view of the above the following remarks. Claims 1-36 are pending in the present application, with claims 1, 13 and 24 being independent. Independent claims 1, 13, and 24

Double Patenting

The Office Action has provisionally rejected claims 1-36 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims in copending US. Patent Applications No. 10/690,422, 10/849,090, and 10/994,010. Applicants intend to file a terminal disclaimer when the double patenting rejection becomes final and when the claims of the present application are allowed.

Rejections Under 35 U.S.C. §103

The Office Action rejects claims 1, 3, -8, 13, 14, 16-19, 24, 25, 25, 32-36 under 35 U.S.C. § 103(a) as being unpatentable over Bandini et al. (U.S. Patent 7,117,358) in view of Mastrianni (U.S. Publication No. 200200116641). In addition, the Office Action rejects claims 2, 9-12, 15, 20-23, 26-31 under 35 U.S.C. § 103(a) as being unpatentable over Bandini et al. in view of Mastrianni and further in view of Lewis et al. (U.S. Publication No. 20030109248). Applicants respectfully traverse these rejections for at least the following reasons.

The combination of Bandini et al. and Mastrianni as suggested in the Office Action does not teach a packet sniffer as disclosed in the present application. The Office Action cites Mastrianni as disclosing a packet sniffer. The office action cites the following Mastrianni language as disclosing a packet sniffer: “the semantic engine that may automatically forward, save, or delete future e-mail messages received that have a user IP, originating IP address, or other characteristic in common with previously received e-mail based on the actions the user took with the previous e-mail.” See Mastrianni, Paragraph [0020], Lines 15-20. As shown in

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Figure 3, and as described in the description of Figure 3, Mastrianni teaches that the semantic engine is implemented on a client device (Internet appliance). “FIG. 3 depicts a block diagram of e-mail filtering software which may be implemented on an Internet appliance 200, or any other type of device user for the sending or receiving of electronic mail.” See Mastrianni, Paragraph [0017], Lines 3-8. Mastrianni teaches that “[e]-mail received from a network mail server through network connection 302 passes through semantic engine 304 which, if configured to filter email messages, analyzes the e-mail using filter definitions 306 [...]” See Mastrianni, Paragraph [0020], Lines 1-3. Therefore, if Mastrianni was to be combined with Bandini et al. as suggested in the Office Action, the resulting system would be one in which the client devices, after receiving email, would perform email filtering.

In contrast, the present application discloses packet sniffers that are located at the e-mail server and that extract IP addresses associated with e-mail messages that are communicated to the clients over the distributed network. For example, Claim 1 of the present application discloses “a plurality of servers that receive e-mail messages ... each of the servers having a packet sniffer that extracts originating IP addresses associated with e-mail messages that are communicated to the clients.” The packet sniffers of the present application are located in each of the plurality of servers that receive e-mail messages.

In addition, locating the packet sniffers on the e-mail servers permits detecting spam messages before they are delivered to the client computing device. “By utilizing packet sniffers 122 across the distributed network 102, the system is able to leverage data from various remotely locate and unrelated customers to detect and stop spam messages. This allows the system to detect spam from an IP address even if a spammer has not repeatedly targeted a specific customer.” See Specification, Paragraph [0033], Lines 4. Applicants submit that Mastrianni does not disclose packet sniffers located at the email servers as disclosed in the present application. Furthermore, Bandini does not cure this deficiency of Mastrianni. In the Office Action, the Examiner recognizes that “Bandini does not specifically disclose a packet sniffer that extract originating IP addresses associated with e-mail messages.” See Office Action, Page 5,

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Lines 4-5. Accordingly, Bandini et al. and Mastrianni, alone or in combination, does not disclose a packet sniffer located in each of a plurality of email servers.

Therefore, since Bandini et al. and Mastrianni, alone or in combination, fail to disclose or suggest all of the elements of claims 1, 13 and 24, these claims are allowable. Furthermore, claims 2-12 depend from claim 1. Claims 14-23 depend from claim 13. Claims 25-36 depend from claim 24. As discussed above, claims 1, 13 and 24, are allowable over Bandini et al. and Mastrianni. For at least this reason, and the additional features recited therein, claims 2-12, 14-23 and 25-36 are also allowable. For at least the reasons above, reconsideration and withdrawal of the rejection of claims 1-36 under 35 U.S.C. §103(a) is respectfully requested.

Conclusion

Accordingly, in view of the above amendment and remarks it is submitted that the claims are patentably distinct over the prior art cited and that all the rejections to the claims have been overcome. Based on the foregoing, applicants respectfully request that the pending claims be allowed, and that a timely Notice of Allowance be issued in this case. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the applicants' attorney at the telephone number listed below.

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If this response is not considered timely filed and if a request for an extension of time is otherwise absent, applicants hereby request any necessary extension of time. If there is a fee occasioned by this response, including an extension fee that is not covered by an enclosed check please charge any deficiency to Deposit Account No. 50-0463.

Respectfully submitted,
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Date: August 8, 2007

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